

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

EUGENE ERWIN ALLEN, JR.,)	
)	
Plaintiff,)	
)	
v.)	Criminal No. 03-58-B-W
)	
UNITED STATES OF AMERICA,)	Civil No. 07-39-B-W
)	
Defendant.)	

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

On March 26, 2007, Magistrate Judge Kravchuk issued a decision in which she recommended that the Court “summarily dismiss Allen’s 28 U.S.C. § 2255 motion pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings.” *Rec. Dec. on 28 U.S.C. § 2255 Mot.* (docket # 4). On April 17, 2007, without objection from Mr. Allen, the Court affirmed the magistrate judge’s recommended decision. *Order Affirming the Rec. Dec. of the Magistrate Judge* (Docket # 5). Judgment was entered on the Order on April 18, 2007. *Judgment* (Docket # 6).

On April 23, 2007, Mr. Allen moved to set aside the Order, explaining that although he had received the April 17, 2007 Order, he had not received the magistrate judge’s recommended decision. *Pro Se Mot. to Set Aside Order on Rec. Dec.* (Docket # 7). He explained his failure to object to the magistrate judge’s recommended decision by saying that he had been admitted as a patient in a hospital in Leominster, Massachusetts, undergoing a significant operation. *Id.* He requested the opportunity to object. On April 27, 2007, the Court issued an Order in which it interpreted his request to be a motion for relief from Order under Rule 60(b) based on excusable

neglect and the Court granted his motion. *Order Granting Pl.'s Mot. to Set Aside Judgment* (Docket # 8). The Court expressly granted Mr. Allen an additional two weeks within which to file any objections to the magistrate judge's recommended decision. *Id.* Mr. Allen's objections were due on or before May 17, 2007.

Since April 27, 2007, however, the Court has received no objection or any other pleading from Mr. Allen; accordingly, in the absence of any objection by the Plaintiff, the Court accepts and affirms the Recommended Decision of the United States Magistrate Judge dated March 26, 2007. Accordingly, it is hereby ORDERED that the Plaintiff's 28 U.S.C. § 2255 Petition be and hereby is DISMISSED (Docket # 1).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 22nd day of May, 2007